

HOUSE BILL REPORT

SSB 5991

As Passed House - Amended:
February 28, 2018

Title: An act relating to increasing transparency of contributions by creating the Washington state DISCLOSE act of 2018.

Brief Description: Increasing transparency of contributions by creating the Washington state DISCLOSE act of 2018.

Sponsors: Senate Committee on State Government, Tribal Relations & Elections (originally sponsored by Senators Billig, Fain, Palumbo, Miloscia, Hunt, Mullet, Carlyle, Frockt, Rolfes, Ranker, Darneille, Conway, Hasegawa, Pedersen, Nelson, McCoy, Takko, Saldaña, Cleveland, Wellman, Kuderer, Liias, Hobbs, Chase, Van De Wege, Keiser and Dhingra).

Brief History:

Committee Activity:

State Government, Elections & Information Technology: 2/7/18, 2/21/18 [DPA].

Floor Activity:

Passed House - Amended: 2/28/18, 53-45.

**Brief Summary of Substitute Bill
(As Amended by House)**

- Requires certain nonprofit organizations participating in political campaign financing to report to the Public Disclosure Commission on its top contributors and its expenditures to political campaigns or groups.

HOUSE COMMITTEE ON STATE GOVERNMENT, ELECTIONS & INFORMATION TECHNOLOGY

Majority Report: Do pass as amended. Signed by 5 members: Representatives Hudgins, Chair; Dolan, Vice Chair; Appleton, Gregerson and Pellicciotti.

Minority Report: Do not pass. Signed by 3 members: Representatives McDonald, Ranking Minority Member; Kraft, Assistant Ranking Minority Member; Johnson.

Minority Report: Without recommendation. Signed by 1 member: Representative Irwin.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Sean Flynn (786-7124).

Background:

Washington's campaign finance and disclosure law was originally enacted by voter initiative in 1972. The law requires the disclosure of campaign finance activity, lobbyist activity, and financial affairs of elective officers and candidates. The Public Disclosure Commission (PDC) enforces the provisions of the campaign finance disclosure law and has authority to develop procedures, adopt rules, investigate complaints, and impose civil penalties for violations.

The campaign finance and disclosure law requires all political committees that receive contributions and make expenditures to file a statement of organization with the PDC. The statement requires the disclosure of certain information, including the names and addresses of committee members, officers or leaders, and treasurer, as well as which candidates and ballot measures the committee supports or opposes.

Political committees must periodically report to the PDC on their contribution and expenditure activities. An initial report is due the same day the statement of organization is filed. Subsequent reports are due 21 days and seven days before the election, one month after the election, and each month the committee receives or spends at least \$200. A political committee also must submit a special report each time it receives a contribution of \$1,000 or more during the period immediately preceding an election.

Political committees and candidates are prohibited from receiving a single-source contribution over \$50,000 for a statewide office campaign within 21 days of a general election. The prohibition on the single-source contribution limit within 21 days of an election is \$5,000 for other campaigns. Contributions from a bona fide political party are exempt from these restrictions.

Summary of Amended Bill:

Certain reporting requirements under the campaign finance and disclosure law are created for "incidental committees," which is defined as any nonprofit organization, not otherwise reporting as a political committee, that makes political contributions or expenditures in political campaigns. An incidental committee must file a statement of organization with the PDC within two weeks after expecting to make contributions or expenditures of at least \$25,000 in a calendar year to an election campaign or political committee. After filing its statement of organization, the incidental committee must report to the PDC on its contribution and expenditure activities. The first report is filed with its statement of organization. Other reports are due 21 days and seven days before the election, and one month after the election.

Each report must disclose the top 10 largest payments that exceed an aggregate of \$10,000 in a calendar year, and any expenditure of \$50 or more made to an election campaign, political committee, or other incidental committee. Incidental committees must file an additional report if there are any changes within the top 10 contributors or any single large contributor, as well as any political expenditures that exceed \$200 in the period since its last report.

Regarding the top 10 payments, an incidental committee may not report a payment that is received in aggregated form, but must report any qualifying individual payment included in the aggregated payment. In addition, nonprofit organizations that only remit payments in aggregated form are not incidental committees as long as the payments are not reportable under the campaign finance and disclosure law. Payments from a charitable nonprofit private foundation are not reportable as a top 10 payment if the incidental committee has a contract with the foundation that requires the funds to be used for an specific purpose that does not include any campaign purposes, and the payment makes up no more than 25 percent of the incidental committee's total budget. Regarding reportable expenditures, commentary or analysis on a ballot measure that does not specifically advocate for or against the measure is not an election campaign expenditure.

The PDC may suspend or modify the reporting requirements for an incidental committee in cases of manifestly unreasonable hardship. Contributions from incidental committees are exempt from the single-source contribution limits within 21 days of a general election.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect on January 1, 2019.

Staff Summary of Public Testimony:

(In support) This bill will increase transparency and provide more information to voters on who is funding election campaigns. Ever since the Supreme Court's decision in *Citizen's United*, there has been a significant increase in nonprofit organizations participating in election activity. The reason for this increase is that these nonprofit organizations can participate in election financing without disclosing the source of their contributions. This current practice violates the intent of the law, but is technically in compliance since nonprofit groups are not required to disclose their donors. Most people agree that the current law needs to change. This bill offers the only solution that has been proposed to address the problem.

(Opposed) This bill is an attempt to limit speech. If the intent is to attack the increase of money in politics, then the solution should be better enforcement, not broader disclosure requirements. There will be unintended consequences that will require reporting on non-political fundraising. It will also have a chilling effect on speech as donors who do not support or donate for political purposes will be reluctant to donate to nonprofit organizations. This will have a big impact on smaller associations and also will increase complaints filed with the PDC. The striking amendment does address some concerns by increasing the reporting threshold.

(Other) The current disclosure requirements are complex and unfamiliar to nonprofit organizations. The laws were not intended to apply to nonprofit organizations and there is no guidance to instruct nonprofits, so there will need to be more resources for the PDC to educate nonprofits on compliance with the bill. The bill should require the PDC to create and

disseminate materials to nonprofit organizations, especially to charitable nonprofit organizations that engage in nonpartisan ballot measure activities. The striking amendment is an improvement on the bill by excluding the aggregation of donations into single donation.

Persons Testifying: (In support) Senator Billig, prime sponsor; Kathy Sakahara, League of Women Voters of Washington; Vicki Christophersen, Ballard High School Capitol Classroom; Denny Eliason, Washington Association of Realtors, Inc.; and Cindy Black, Fix Democracy First.

(Opposed) Paul Guppy, Washington Policy Center; Elizabeth Smith, American Civil Liberties Union of Washington; Jan Himebaugh, Building Industry Association of Washington; Mark Johnson, Washington Retail Association; and Bob Battle, Association of Washington Business.

(Other) David Streeter, Washington Nonprofits; and Jerry VanderWood, Associated General Contractors of Washington.

Persons Signed In To Testify But Not Testifying: None.